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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/805,614

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David Alan Gaddis

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EXAMINER

ABDELSALAM, FATHI K

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/805,614	Applicant(s) GADDIS ET AL.	
	Examiner Fathi Abdelsalam	Art Unit 4176	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20070309, 20041115, and 20040319</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. This action is a non-final, first office action on the merits in response to applicant's communication filed on 3/19/2004, wherein claims 1-20 are currently pending.

Information Disclosure Statement

2. The information disclosure statements (IDS) submitted on 3/19/2004, 11/15/2004, and 3/09/2007 are being considered by the examiner.

Priority

3. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in:

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the

international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Pickett et al. (US 6,691,135) (Hereinafter referred to as Pickett).

5. Regarding **Claims 1 and 11**:

Pickett discloses a system and method for managing an agricultural product, comprising:

storing a raw material in a storage container ([abstract], “a container and segregated storage bin for holding a particular crop”);

a transaction manager for physically processing a stored raw material in a storage container to obtain a processed material based on the raw material ([Col. 1 lines 29-30], “a subsequent destination, such as a crop processor”) and see also (FIG. 16 is an example of the processing information);

a data storage manager for recording link data for associating the raw material with the processed material across any transformation between the raw material and the processed material ([Col. 10, lines 59-65],

“The data storage device 332 stores or electronically records at least one of crop information, planting information, planting location data, growing information, harvesting information, harvesting location data, processing information chemical application information, and weather information

about the characteristics of a particular crop from a defined geographic area.”); and

a user interface ([Col. 12, lines 3-5], “[t]he user interface 316 may comprise at least one of a keypad, a keyboard, a pointing device (e.g., mouse), a switch, and a display”) for facilitating at least one of retrieval and data processing of the recorded link data for management of at least one of an agricultural product and the storage container associated with the agricultural product ([Col. 12, lines 59-65],

“The assignment module 340 accepts the data profile 338 from the arranger 336. The assignment module 340 obtains a storage identifier 344 for assignment to a corresponding data profile 338 for example, the reader 324 may read a storage identifier from a container tag 330 on a storage volume (e.g., container) holding a crop or agricultural product”).

6. Regarding **Claims 2 and 12**:

Pickett discloses the aforementioned system and method wherein the transaction manager comprises a processing module for blending the stored raw material to obtain a target trait value of the stored raw material (See Figure 16 Processing Information wherein target traits are defined) and (See also Figure 17).

7. Regarding **Claims 3 and 13**:

Pickett discloses the system and method wherein the transaction manager comprises a processing module and processing comprises blending multiple stored raw materials together to form the processed material (See Figure 17 Collective Data Profile of a various mixture of ingredients or raw materials).

8. Regarding **Claims 4, 14, and 15**:

Pickett discloses the system and method aforementioned above comprising a receiving module for coordinating movements of raw material to or from the storage container; and wherein the processing comprises coordinating movements of the raw material, the processed material, blended material, and any derivatives of the raw material, the processed material, and the blended material among storage containers; and further comprising a shipping module for coordinating movements of the raw material, processed material, blended material, and any derivatives of the raw material, the processed material, and the blended material from or between the storage containers.

(FIG. 6 is a block diagram of a system for tracking a crop or an agricultural product. The system of FIG. 6 is similar to the systems of FIG. 4 and FIG. 5, except that system of FIG. 6 includes a processor data processing system 434 coupled to the data management system 350 via a communications network 348 (e.g., the Internet). See also ([Col. 32, lines

48-49], “The producer also forwards the container identifier to the network site 94 for tracking purposes.”)

9. Regarding **Claims 5 and 16**:

Pickett discloses the aforementioned system and method wherein the storage container is associated with a storage identifier ([Abstract],

“A storage identifier is associated with the arranged data profile for the particular crop. The storage identifier identifies at least one of a container and segregated storage bin for holding a particular crop for a tracked (e.g., an assigned) time duration.)

each raw material associated with a corresponding storage identifier having material attributes, the material attributes including one or more of the following: quantity of the stored raw material, quantity of the processed material, protein content, total weight, moisture, foreign matter, defects, color, material identifier, material variety identifier, and mixture ([Col. 27, lines 8-10], “The processor can use the information to plan and optimize the processing of the crop by knowing specific attributes of the crop in each container”). See also ([Col. 50, lines 34-41],

“Even after the data profile is formed in step S202, chemical application information, weather information, analyzed crop characteristic information, or other crop information may be appended to the data profile. The analyzed crop characteristic information may be obtained by conducting

an analysis (e.g., a genetic test or protein profile) of the particular crop to identify or verify one or more characteristics of the particular crop.”)

10. Regarding **Claims 6 and 17**:

Pickett discloses the aforementioned system and method further comprising:

an inventory monitor for associating a lot of an agricultural product with a corresponding particular storage container ([Col. 10, lines 44-48],

“During or after harvesting operations, a container identification device 424 (e.g., optical, radio frequency, or electromagnetic detector or reader) supports identification of storage volumes (e.g., containers) to distinguish one storage volume”);

the inventory monitor assigning one or more trace elements to the lot based on at least one previous agricultural product stored in the particular storage container ([Col. 15, lines 8-10], “cleaned adequately to remove vegetative matter and significant traces of any previously harvested crop that is distinct from the particular crop.”);

the user interface informing a downstream recipient of the lot of the assigned trace elements ([Col. 6, lines 8-14],

“deliver the data profile to a purchaser of the crop or to a downstream users of the crop so the users can obtain an agricultural product with

verification and/or a high degree of confidence that a desired differentiated attribute is present.”).

11. Regarding **Claims 7 and 18**:

Pickett discloses the aforementioned system and method wherein the inventory monitor limits the assigned one or more trace elements to the previous agricultural products stored in the particular storage container prior to the last cleaning of the particular storage container ([Col. 15, lines 8-10], “cleaned adequately to remove vegetative matter and significant traces of any previously harvested crop that is distinct from the particular crop.”).

12. Regarding **Claim 8**:

Pickett discloses the method according to claim 1 wherein the physical processing comprises blending two or more raw materials to obtain the processed material compliant with an attribute selected from the following group: protein content, baking strength, sprouted grain, broken kernels, grade, test weight per bushel, damaged kernels ([Col. 20, lines 20-22], “[a]lso included are the yield, the crop condition, i.e. moisture and damage, and various combine machine settings.”), heat damage percent, total damage percent, foreign material percent, percent shrunken and broken kernels, and defects percent (See Figure 17 Collective Data Profile of a various mixture of ingredients or raw materials). See also ([Col. 6, lines 9-14],

“can obtain an agricultural product with verification and/or a high degree of confidence that a desired differentiated attribute is present.”).

13. Regarding **Claim 9**:

Pickett discloses the method according to claim 1 wherein the physical processing comprises blending two or more raw materials to obtain a processed material compliant with a governmental grade for wheat selected from the following group: United States number 1, United States number 2, United States number 3, United States number 4, United States number 5, United States sample grade, French E class, French class 1, French class 2, French class 3(a) and French class 3(b). See (Figure 17 Collective Data Profile of a various mixture of ingredients or raw materials). See also ([Col. 16, lines 64-67],

“[t]he desired level of purity (e.g., less than 3% contamination by volume) may comply with one or more of the following: government or regulatory standards, certification standards...”

Furthermore, the nature of the particular type of government and grade of crop has been deemed merely intended usage of the claimed invention and therefore accorded little patentable weight.

14. Regarding **Claim 10**:

Pickett discloses the method according to claim 1 further comprising:

verifying an estimated quantity of the raw material in the particular storage container ([Col. 10, lines 44-48],

“[d]uring or after harvesting operations, a container identification device 424 (e.g., optical, radio frequency, or electromagnetic detector or reader) supports identification of storage volumes (e.g., containers) to distinguish one storage volume”);

adjusting the estimated quantity of the raw material to conform to an actual measured quantity of the raw material by adjusting at least one of a lot quantity of a particular lot of the raw material and a flow type associated with the particular storage container (See Figure 22 pertaining to the mass-flow sensor 138).

15. Regarding **Claim 19**:

Pickett discloses the system according to claim 11 further comprising:

an inventory monitor for monitoring a status of at least one of the material and the storage container ([Col. 10, lines 44-48],

“[d]uring or after harvesting operations, a container identification device 424 (e.g., optical, radio frequency, or electromagnetic detector or reader) supports identification of storage volumes (e.g., containers) to distinguish one storage volume”);

a remote monitor communicating a status of the at least one of the material and the storage container to the inventory monitor ([Col. 32, lines 49-53],

“If and when the processor desires the information from the collective data profile, the processor communicates with the network site and provides the container identifier for which information is desired.”).

16. Regarding **Claim 20**:

Pickett discloses the system according to claim 11 further comprising;
a controller for controlling at least one of the material and the storage container associated with the material ([Col. 21, lines 39-43],

“[i]n step S414, the processor data processing system 434 reads or collects a storage identifier (e.g., container identifier) for one or more storage volumes (e.g., containers) for holding the further processed crop or derivative thereof.”);

a processing module of the transaction manager communicating with the controller ([Col. 32, lines 49-53],

“If and when the processor desires the information from the collective data profile, the processor communicates with the network site and provides the container identifier for which information is desired.”)

and also see ([Col. 21, lines 53-57],

“In step S418, the processor data processing system 434 or a transmitter 346 associated therewith transmits at least a portion of the revised data

profile to a data management system 350 to make the revised data profile available to a subscriber or user of the data management system 350.”)

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fathi Abdelsalam whose telephone number is (571) 270-3517. The examiner can normally be reached on Monday to Thursday 8:00-5:00pm ET.

19. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

20. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/F. A./
Examiner, Art Unit 4176
August 4, 2008

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 4176